IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEALS No 498 & 699 of 1995
in
SPECIAL CIVIL APPLICATIONS No 6194 of 1984
AND 5508 OF 1988
with
CIVIL APPLICATIONS No. 3989/96, 3990/96 and
10508 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE
and
Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MAVJIBHAI PARBATBHAI TRAPASIA
Versus
STATE OF GUJARAT

Appearance:
1. LETTERS PATENT APPEAL No. 498 of 1995
Mr R P Bhatt with Mr Harin P Raval
for Appellants No. 1-2
Mr A Y Kogje, AGP for Respondents No. 1-2
RULE SERVED for Respondent No. 2
MR MANISH R BHATT for Respondents No. 3-4

2. LETTERS PATENT APPEAL NO. 699/95
Mr Harin Raval for appellants No.

Mr A Y Kogje, AGP for respondents No.1 & 2
Mr M R Bhatt for respondents no.3 & 4

3. C.A. No. 3990/96 & 3989/96
Mr Harin Raval for the applicants

4. C.A. No. 10508/99
Mr M R Bhatt for the applicant

CORAM : MR.JUSTICE A.R.DAVE
and
MR.JUSTICE D.P.BUCH

Date of decision: 04/10/2001

ORAL (COMMON) JUDGEMENT
(Per : MR.JUSTICE A.R.DAVE)

As both these appeals have been filed against a common judgment delivered in Special Civil Application No.6194/84 and Special Civil Application No.5508/88 dated 28.2.1995, both the appeals are heard together and are disposed of by way of this common judgment.

2. The facts giving rise to the present litigation in a nutshell are as under:

The appellants are original petitioners, who have been described hereinafter as "petitioners" for the sake of convenience. Petitioners in Special Civil Application No.6194/84 were the partners of a partnership firm named M/s. Khedut Sarvoday Company which was formed on 21.1.1975. One of the partners viz; Shri Nathubhai Mandanbhai Parsana - petitioner No.7 of the said petition owned certain plots of land situated at Rajkot. The said land was brought by him by way of his capital and it was treated as partnership property. Subsequently, on 4.12.1975, the partnership firm had been dissolved and as a result thereof, the petitioners of Special Civil Application No.6194/84 became owners of different plots which were distributed among the partners. On 17.2.1976, Urban Land (Ceiling & Regulation) Act, 1976 (hereinafter referred to as 'the Act') came into force. According to the petitioners, the date on which the Act came into force, all the petitioners of Special Civil Application No.6194/84, who were partners of Khedut Sarvoday Company had individually became owners of different plots which formerly belonged to the said partnership firm. Inspite

of the fact that the petitioners had become owners of the plots and the partnership firm was not even in existence as on 17.2.1976, for the sake of abundant caution, the partnership firm filed Form No.I being statement under the provisions of section 6(1) of the Act. The said statement was filed in the name of the firm on 12.9.1976. The competent authority under the Act, scrutinised the form and after considering the fact that the firm had been dissolved on 4.12.1975, came to the conclusion that the partners of the firm viz; the petitioners, did not own the land in excess and an order to that effect was passed on 15.11.1979.

3. The Government of Gujarat in Revenue Department issued a show cause notice dated 7.3.1984 under section 34 of the Act to the petitioners. The said notice was replied to by the petitioners and ultimately the State of Gujarat's Revenue Department set aside the order dated 15.11.1979 passed by the competent authority under the Act. The State of Gujarat, after hearing the petitioners came to the conclusion by an order dated 28.10.84 that the partnership firm was formed only with an intention to avoid the provisions of the Act and ultimately it held that all the petitioners were entitled to hold only one unit of land and the remaining land was declared surplus. It also directed that further proceedings under the Act should be initiated by the competent authority in pursuance of the above findings.

4. Special Civil Application NO.6194/84 was filed for the purpose of challenging the validity of the said order dated 28.10.1984 passed by the Revenue Department of the State of Gujarat.

During the pendency of the said Special Civil Application, this Court had, by an interim order, restrained the respondent Government authorities from taking possession of the land in question from the petitioners but had permitted the competent authority to proceed further with the proceedings under the provisions of the Act. Ultimately, the competent authority followed the procedure prescribed under the Act and declared that all the petitioners i.e. all the partners of the firm were entitled to only one unit and therefore, Shri Nathubhai Parsana, petitioner no.7 in Special Civil Application No.6194/84, filed an appeal before the tribunal under the provisions of section 33 of the Act because it was held that Shri Nathubhai Parsana was entitled to one Unit of land and the remaining land, which also belonged to him, was declared surplus. The appeal filed under section 33 of the Act was not

entertained by the tribunal because the decision was taken by the competent authority under the direction given by the Government of Gujarat in pursuance of the order dated 28.10.1984. The tribunal, therefore, dismissed the appeal and being aggrieved by the order whereby the appeal was dismissed, Shri Nathubhai Parsana filed Special Civil Application No.5508/88 and as the land which was the subject matter of Special Civil Application No.5508/88 and of Special Civil Application No.6194/84 is same, the learned Single Judge heard both the petitions together and disposed of the same by a common judgment dated 28.2.1995.

5. It was submitted before the learned Single Judge on behalf of the petitioners that in fact the partnership firm was not the owner of the land in question but the partners in their individual capacity, had become owners of the land in question after 4.12.1975, the date on which the firm had been dissolved. It was submitted that in view of the fact that upon dissolution of the firm each partner had received his share from the partnership property, each partner had become a distinct owner of his share and as all the partners were not holding lands beyond the ceiling limit, the competent authority ought not to have come to the conclusion that Shri Nathubhai Parsana was the owner of all the plots. Thereafter, it was submitted before the learned Single Judge that notice under section 34 of the Act was issued by the State of Gujarat after more than 4 years. It was submitted that the Government ought not to have exercised its revisional jurisdiction after such a long period. The competent authority had passed an order dated 15.11.1979 whereby it was accepted that all the partners were owners of their distinct share and as no partner was holding more than the ceiling limit, there was no excess land. The said order was taken into revision by the Government of Gujarat by issuance of show cause notice dated 7.3.1984. The notice was issued after more than four years and, therefore, as per the submission of the learned Advocate, the decision taken by the respondent Government in pursuance of notice under section 34 of the act was suffering from the vice of delay and, therefore, the said order of the Government was unjust and illegal. It was also submitted on behalf of the petitioners that during the pendency of the litigation, the petitioners had transferred their shares to different persons by registered sale deeds and except Shri Nathubhai Parsana, no partner was the owner of any of the plots and as the transferees of the plots had not been given any notice or had not been heard, the impugned orders passed by the competent authority were bad in law.

6. On the other hand, it was submitted on behalf of the respondent authorities that there was no unreasonable delay because the respondent Government was burdened with plenty of cases arising under the Act and in the process of scrutiny of the cases, some delay had been caused. Moreover, it was also submitted that the petitioners wanted to avoid the consequences of the Act and, therefore, the partnership firm had been constituted. It was, therefore, submitted on behalf of the respondent authorities that as a matter of fact, all the petitioners had not become owners of the partnership property but Shri Nathubhai Parsana was the sole and real owner of all the plots.

7. The learned Single Judge, after considering the above referred arguments advanced on behalf of the concerned parties, came to the conclusion that the petitioners were not entitled to any of the reliefs prayed for in the petitions. The learned Single Judge mainly observed that there was nothing on record to show that the partners, other than Shri Nathubhai Parsana had sold their plots to other persons. The learned Single Judge also believed that the delay caused in issuance of notice under section 34 of the Act was quite reasonable. For the aforesaid reasons the learned Single Judge rejected the petitions and being aggrieved by the judgment delivered by the learned Single Judge, the appellants-original petitioners have approached this Court by way of these appeals.

8. It is pertinent to note that during the pendency of the proceedings, by virtue of the Urban Land (Ceiling & Regulation) Repeal Act, 1999 , w.e.f. 31.3.1999, the Act has been repealed. It is also pertinent to note that in the LPAs, the petitioners and the respondents have placed on record certain material which was not placed before the learned Single Judge. The said material consists of copies of registered sale deeds whereby the petitioners had sold their plots in question to different persons. A copy of the panchnama dated 25/26.3.1996 whereby the respondent authorities have alleged that possession of the land in question was taken by the respondent authorities has also been placed on record. As stated hereinabove, the plots were sold to third parties during the pendency of the litigation. The third parties, i.e. buyers of the plots who wanted to put up construction on the land in question had approached Rajkot Municipal corporation or Rajkot Urban Development Authority for obtaining necessary permissions for putting up construction on the land in question. Permissions

were granted in favour of the bonafide buyers and copies of the permissions which are also known as commencement certificates, have also been placed on record. Before effecting the sale of the plots in question, the concerned petitioners had also approached the competent authority for obtaining permission under the provisions under section 26 of the Act. Permissions were granted in favour of the concerned petitioners and the copies of the said permissions have also been placed on record. During the pendency of the petitions and the appeals, construction has been put up on most of the plots and the tax bills and receipts in respect of the property tax have also been placed on record. Learned Advocates were conscious of the fact that normally the material which is not placed on record of the Special Civil Application cannot be looked into by the Court while deciding LPA but looking to the peculiar facts of the case and looking to the nature of the documents, which are not disputable, the learned Advocates have submitted that they have no objection if the documents which have been placed on record are looked into by this court for the purpose of deciding the appeals. Thus at the instance of and with the consent of the learned Advocates, all the above stated documents have been taken on record. Under the circumstances, while hearing the appeals we have also looked into all the documents which are placed on record of this Court at a belated stage.

9. Learned Sr.Advocate Mr R P Bhatt, with learned Advocates M/s Harin Raval and Manish R Bhatt, has appeared for the appellants whereas learned AGP Mr Kogje has appeared for the respondent-Government authorities.

10. It has been submitted on behalf of the appellants that looking to the facts of the case and the developement which has taken place during the pendency of the petitions and the appeals, the appeals should be allowed and the judgment delivered by the learned Single Judge should be quashed and set aside. It has been submitted on behalf of the petitioners that in fact the possession of the so-called surplus land has not been taken and could not have been taken for the reason that on most of the plots construction has been put up during the pendency of the litigation and in fact the third parties i.e. those who have purchased the plots from the partners of the firm have not only constructed flats/buildings but they have also started residing in the construction put up by them. It is not in dispute that those who are in actual occupation of the flats/buildings put up on the land in question have not been given any notice as required to be given under the

provisions of section 10(5) of the Act. The said notice was issued only to Shri Nathubhai Parsana. It has been submitted that the bonafide buyers of the land in question are either persons who are in actual occupation of the plots in question or they are persons interested in the land in question. It has been demonstrated that names of the bonafide buyers have been incorporated in the Revenue record and, therefore, had due care been taken by the respondent authorities, names of those buyers who are the owners and interested in the plots in question could have been known by the respondent authorities. Issuance of notice under section 10 of the Act is a sine quo non for taking possession of the surplus land. It has also been submitted that upon perusal of the panchnama dated 25/26.3.1996, it is very clear that the land of which possession is said to have been taken was not only an open land but there was some construction on it. Thus, it has been submitted on behalf of the petitioners that as possession of the land in question was taken without issuance of requisite notices to the persons interested and the persons occupying the land in question, the possession if any, taken by the respondent authorities cannot be said to be legal or valid.

11. It has been also submitted on behalf of the petitioners that substantial delay was caused in issuance of the notice under section 34 of the Act. As no time limit has been prescribed under the Act, according to the learned Sr.Advocate Mr R P Bhatt, the notice under Section 34 of the Act ought to have been issued within a reasonable period. He has relied upon some judgments to show that reasonable period should not exceed a year or two. In the instant case, as the notice had been issued after more than four years, it cannot be said that the notice under Section 34 of the Act had been issued within reasonable period. It has also been submitted and substantiated with the help of the documents which have been placed on record during the pendency of the litigation that before issuance of notice under section 34 dated 7.3.1984, several plots had been sold and the sale effected by the petitioners had also been duly registered before the issuance of notice section 34. In view of the fact that the property had changed hands and the bonafide buyers had become owners of the plots, the respondent Government's exercise power under section 34 of the Act was bad in law on account of inordinate delay caused in issuance of notice under Section 34 of the Act.

12. So far as formation and dissolution of the partnership firm is concerned, it has been submitted on

behalf of the petitioners that a partnership firm is not a legal entity and property of the firm is, in fact, owned by the partners of the firm. In the instant case, the partnership was formed on 21.1.1975 and, therefore, in other words, all the partners of the firm, who are petitioners in Special Civil Application No.6194/84 were the real owners of the land in question. Upon dissolution of the firm on 4.12.1975, the partners were given their share in the property of the firm and thereafter the partners became owners of the plots which came to their respective share. It has been submitted that it was not necessary to register the deed of partnership firm. Similarly, it was also not obligatory to get the formation or dissolution of the firm on the record of the Registrar of Firms. Learned Advocate for the appellants has relied upon the following judgments to substantiate the aforesaid proposition of law.

a. Narayanappa v Bhaskara Krishnappa
(AIR 1966 SC 1300)

b. Gangadhar Madhavrao Bidwai v.
Hanmantrao V Mungale ((1995) 3 SCC 205)

c. Anil Engineering Works v. Competent Authority
and Deputy Collector & Anr.
(1996(1) GLH (U.J.) 15)

d. M/s. Kavita Benefit v. Jt.Secretary,Revenue
Department (35 (1) GLR 649)

e. State of Gujarat v. Patel Raghav Nathabhai
(1969) 10 GLR 992)

13. On the other hand, learned AGP Mr A Y Kogje appearing for the respondent authorities has submitted that the judgment delivered by the learned Single Judge is just, legal and proper. He has submitted that the partnership firm had been formed by the petitioners only for the purpose of defeating the object of the Act and to save the land of Shri Nathubhai Parsana from being declared surplus. It has been submitted by him that the partnership was a sham and the authorities therefore, rightly did not consider the partners of the firm as individual owners of the plots and Shri Nathubhai Parsana wass rightly treated as a sole owner of the land in question.

14. In order to substantiate his submission, it has been submitted by the learned AGP that the firm had filed

form No.I as per the provisions of section 6(1) of the Act. According to him, if the firm was not the real owner of the land in question, the firm would not have filed form No.I under the Act. Thus, he has tried to show that the real owner of the land was the firm or Shri Nathubhai Parsana and, therefore, either the firm or Shri Nathubhai Parsana was entitled to only one unit.

15. So far as the delay caused in issuance of notice under section 34 of the Act is concerned, it has been submitted by the learned AGP that at the time when form No.I was given, the Government authorities were busy with scrutiny of many forms and it was difficult for the respondent authorities to look into each and every form carefully. It has been submitted that as and when the pressure of work had been reduced, the concerned authorities looked into each and every form and thereupon it was found that the competent authority ought not to have passed the order dated 15.11.1979 and, therefore, the notice under section 34 of the Act had been issued. It has been submitted that there was no lethargy on the part of the Government authorities and according to him as per the law laid down in (1995) supp. (3) SCC 249, the delay caused in issuance of notice did not vitiate the validity of the notice.

16. Thereafter, it has been submitted by the learned AGP that as the partnership was formed with an intention to defeat the object of the Act, all the transactions with regard to sale of the plots which had been entered into by the partners of the firm on the one hand and other bonafide buyers on the other, cannot be looked into. According to him the buyers of the plots would not get good title especially when the partners were not the real owners of the plots sold to them. It has, therefore, been submitted by him that it was not necessary to issue any notice to the buyers even if names of the said buyers had been recorded in the revenue record.

17. The learned AGP has thereafter submitted that possession of the land in question had already been taken on 26.3.1996 and as possession had been taken before 30.3.1999, the petitioners cannot be permitted to say that they were in possession of the land in question. He has relied upon a panchnama, a copy of which has been placed on record by the respondents, whereunder possession of the land was taken over by the Government authorities.

18. The learned AGP has also tried to support the

judgment delivered by the learned Single Judge and the order passed by the State of Gujarat in pursuance of notice issued under section 34 of the Act. He has submitted that the judgment of the learned Single Judge is just and proper and there is no reason for this court to interfere with the findings arrived at by the learned Single Judge.

19. We have heard the learned Advocates at length and have also perused the relevant material which has been placed on record during the pendency of the appeal.

Upon hearing the learned Advocates and upon perusal of the records referred to hereinabove, in our opinion, the learned Single Judge rejected the petition mainly for the reason that the relevant record or documents were not on record of the petitions. The learned Single Judge was constrained to observe that in absence of the relevant documents and material, it was not possible to believe that the petitioners had sold the plots in question even before the notice under section 34 of the Act had been issued. It is true that there was no material before the learned Single Judge and, therefore, the learned Single Judge was justified in coming to the conclusion that in absence of material on record, the orders issued by the respondent authorities were correct. As stated hereinabove, relevant documents,including sale deeds, receipts of property tax, commencement certificates, permissions given under section 26 of the Act etc. have now been placed on record and we are in a better position to appreciate the material which has now been placed on record at the instance of the learned advocates. Looking to the said record and upon hearing the learned Advocates, we are of the view that the learned Single Judge would not have rejected the petitions if the material which has been placed before us at this stage was placed before the learned Single Judge by filing appropriate affidavits as it has been done now.

20. We have noted the fact that even before the notice under section 34 of the Act was issued to the petitioners, the petitioners had sold several plots to different persons and the sale deeds had been duly registered. The plots had been sold for consideration and, therefore, one can surely believe that the persons who purchased the plots are bonafide buyers with consideration and without notice. It is pertinent to note that names of all the petitioners have been incorporated in the revenue record. The competent authority had come to the conclusion by an order dated 15.11.1979 that the petitioners were not holding surplus

land. On the basis of the said order and in pursuance of the permissions granted in favour of the petitioners under the provisions of section 26 of the Act, the plots had been sold. It is not even the case of the respondent authorities that the persons who had purchased the plots were aware of the fact that some proceedings were contemplated under the provisions of the Act. It is also not in dispute that the proceedings under section 34 of the Act had been initiated after more than 4 years. The reason which has been assigned on behalf of the respondent authorities with regard to pressure of work cannot be said to be a justifiable reason. If the Government authorities had pressure of work, they ought to have managed their affairs or work in such a manner that the work was done swiftly and quickly. It was open to the Government authorities to have more staff at the relevant time so as to scrutinise the relevant forms or the orders passed by the competent authority with promptness. If the Government does not do so and if in the mean time the property passes hands and the bonafide buyer becomes the owner of the property after paying the purchase price, in our opinion, interest of such a bonafide buyer cannot be adversely affected by initiation of proceedings under section 34 of the Act.

21. It is not in dispute that most of the bonafide buyers have taken necessary permission for the purpose of putting up construction on the plots in question. Permission for putting up construction or commencement certificate as it is popularly known, had been issued to the buyers and they had started construction on the plots in question. By the time the final order was passed by the competent authority declaring surplus land, construction had been put up on several plots. Subsequent buyers had started occupying the flats/buildings constructed on the plots in question. The said fact has been substantiated by adducing evidence in the nature of property tax bill and receipts given by Rajkot Municipal corporation in respect of tax collected by it from the occupiers. It is not in dispute that the bonafide buyers have occupied the property and their names are reflected in the record of the Rajkot Municipal Corporation because Rajkot Municipal Corporation is collecting tax from the said persons. The said record, therefore, reflects that the bonafide buyers or the third parties are actually in occupation of the plots in question.

22. If in fact several persons other than those who were the partners in the firm and who are petitioners in Special C.A. No.6194/84 have occupied the plots in

question and if they had not been given any intimation or notice under the provisions of section 10(5) of the Act, in our opinion, the respondent authorities could not have taken possession of the so-called surplus land. It has been held by the Hon'ble Supreme Court as well as this Court that the subsequent buyers are the persons interested and they should be heard before issuance of draft statement. Looking to the law laid down in the case of Chhotabhai I Patel v. State of Gujarat, reported in 1994(1)GLH 203, it is very clear that the respondent authorities could not have taken possession of the land in question in the manner in which it has been taken over. If the panchnama dated 25/26.3.1996 prepared by the respondent authorities is perused, it would reveal that there is a reference to some construction put up on the land in question. In our opinion, if the authorities taking possession of the land in question were aware of the fact that there was construction on the land in question and people were staying on the land in question, it was obligatory on the part of the respondent authorities to issue notices under section 10 (5) of the Act to the said persons before taking actual possession of the land in question.

23. It is also pertinent to note that Shri Nathubhai Parsana was given notice under section 10(5) dated 30.6.1988. In pursuance of the said notice it appears that possession of the land in question was taken on 25/26.3.1996. Upon perusal of the panchnama dated 25/26.3.1996, it appears that Shri Nathubhai Parsana had not been given any intimation with regard to the date on which the possession of surplus land was to be taken on behalf of the Government authorities. Column No.5 in the said panchnama reads as under:

> "The date on which the applicant has to remain present for the purpose of handing over possession."

No date has been specified against the above mentioned portion which forms column No.5. This fact clearly denotes that Shri Nathubhai Parsana was not even informed as to when he should remain present for the purpose of handing over possession. This Court had restrained the respondent authorities from taking possession of the land in question and, therefore, immediately upon the rejection of Special Civil Application No.6194/84 by an order dated 28.2.1995, without giving further intimation to Shri Nathubhai Parsana, the respondent authorities had proceeded to take possession of the land in question. In our opinion, the manner in which the possession is said

to have been taken by the respondent authorities is also not proper because in the body of the panchnama it has been stated that Shri Nathubhai Parsana, who has been described as an applicant, was asked in 1988 to remain present in 1988 for the purpose of handing over possession but as he had not remained present for the purpose of handing over possession, the possession of the land in question was taken on 25/26.3.1996 in presence of two Panchas named in the said panchnama. As stated hereinabove, Shri Nathubhai Parsana was not at all given intimation with regard to the date on which possession of the land in question was to be taken. This fact also denotes that the respondent authorities had acted in undue haste and in violation of the procedure prescribed under section 10 of the Act. In our opinion, for the purpose of getting possession, Shri Nathubhai Parsana, ought to have been given an intimation about the date on which the respondent authorities wanted to take possession of the land in question. Having failed to do so and upon taking possession in absence of Shri Nathubhai Parsana, in our opinion, the respondent authorities have not acted in a just and legal manner. We, therefore, come to the conclusion that the panchnama has been prepared in violation of legal provisions and, therefore, we do not believe that possession of the land in question had been taken by the respondent authorities in a lawful manner before 30.3.1999.

24. It is also pertinent to note that Shri Nathubhai Parsana is not an owner of the land beyond the ceiling limit because upon dissolution of the firm, he got only 1326.21 sq. metres of land. The said fact is also reflected in the Village Form No.6 which is on record of this case. In view of the said fact, Shri Nathubhai Parsana was not having any surplus land and, therefore, there was no question of taking any land from his possession by the respondent Government authorities.

25. It is also pertinent to note that when the respondent Government issued notice under section 34 of the Act, notices had been issued to each and every partner i.e. each and every petitioner in Special Civil Application No.6194/84. This fact shows that the respondent authorities were aware of the fact that in all there were 10 partners/persons who were owners of the land in question or who were interested in the land in question. Inspite of the said fact, when the final orders were passed by the respondent Government and when the question with regard to taking possession of the land in question had arisen, except Shri Nathubhai Parsana, nobody had been given any intimation with regard to

proceedings initiated by the respondent authorities. Even order dated 28.10.1984 which has been passed in pursuance of the notice under section 34 of the Act had not been served upon any of the petitioners except Shri Nathubhai Parsana. This fact clearly denotes that the proceedings for the purpose of taking possession had not been taken in accordance with the law. The possession therefore cannot be said to have been taken at all. The appellants are thus required to be treated to be in possession of the land in question on the date on which the Urban Land (Ceiling and Regulation) Repeal Act, 1999 was brought in force.

26. It may be mentioned here that during the pendency of the appeals, Civil Application No.10508/99 had been filed in LPA No.498/95 by Shri Jayantilal M Rathod and Shri Manoharsinh R Zala. The said applicants are the bonafide buyers of some of the plots in question. They are in possession of plots No.19-A and 19-B. Possession of the said plots has not been taken by the respondent authorities so far. It has been submitted in the said application that as the said applicants have not been dispossessed in accordance with law before 30.3.1999, now it is not open to the respondent authorities to dispossess them and, therefore, they have prayed for declaration that the proceedings under the Act abated as per the provisions of section 4 of the Urban Land (Ceiling & Regulation) Repeal Act, 1999. Needless to say that as the said applicants have not been dispossessed so far, it would not be open to the respondent authorities to now dispossess them of the said plots.

27. For the aforesaid reasons, we allow these appeals. The judgment dated 28.2.1995 passed by the learned Single Judge as well as the order of the State of Gujarat dated 28.10.1984 and all other orders passed in pursuance thereof are quashed and set aside. We also hold that as possession of the plots in question has not been taken in accordance with law, the petitioners or their successors in title are deemed to be in possession of the plots in question.

28. The appeals are accordingly disposed of as allowed with no order as to costs. In view of the order passed in the appeals, no orders are required to be passed on the Civil Applications and they stand disposed of accordingly with no order as to costs.

04.10.2001 [A R Dave, J.] [D P Buch, J.]
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